

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Montana

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for Investigations of Compliance and Monitoring

The State has in effect the following process for investigating complaints of violations of requirements by nursing facilities and monitors onsite on a regular, as needed basis, a nursing facility's compliance with the requirements of subsection (b), (c) and (d) for the following reasons:

- (i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;
- (ii) the facility was previously found not to be in compliance with such requirements and has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or
- (iii) the State has reason to question the compliance of the facility with such requirements.

The Licensing and Certification Bureau of the Department of Health and Environmental Sciences has policies and procedures in effect for investigating complaints of violations of requirements by nursing facilities. These policies and procedures encompass the acceptance, referral, investigation, and follow-up of all complaints submitted to the Bureau. A copy of the complaint policy and procedures is attached.

COMPLAINT POLICIES AND PROCEDURES

COMPLAINT ACCEPTANCE

SOM 3281

POLICY Each complaint submitted to the Department of Health and Environmental Sciences regarding a facility certified for Medicare and/or Medicaid will be investigated.

PROCEDURE:

A. Telephone complaints will be taken by any of the following: the Bureau chief, the Surveyor Supervisor, the QA staff, the Complaint Coordinator, the Survey Planner, or the Nurse Aide Training Coordinator.

1. The person accepting the telephone complaint will inform the complainant of the department's policy to have all complaints in writing and will attempt to obtain the complaint in writing.
2. Anonymous complainants will be asked for a name, address and phone number so they can be contacted for additional information and/or given the results of any investigation. If the complainant refuses to give this information, the individual taking the complaint will evaluate the complaint's seriousness. In most cases, anonymous complaints will not be investigated until the next on-site visit.
3. Any person receiving a telephone complaint will complete the "Complaint Acceptance Form" and forward the complaint to the Surveyor Supervisor who will forward the complaint to the Complaint Coordinator. If the Surveyor Supervisor determines the complaint should be investigated immediately, the supervisor will make arrangements for the investigation and then forward a copy of the complaint to the Complaint coordinator.
4. The Complaint Coordinator will initiate the "Medicare/Medicaid Complaint Form" (HCFA 562), enter the complaint in the complaint log, determine "Action to be Taken" regarding the complaint, initiate a "Letter of Acknowledgement", and forward the complaint to the Survey Planner to be entered on the travel schedule.
5. After the investigation is completed, the Complaint Coordinator will organize all pertinent information and complete the complaint file, including HCFA 562, and have the file entered into the computer on OSCAR.

B. Complaints received by mail will be forwarded to the Bureau Chief, the Surveyor Supervisor, and then the Complaint Coordinator who will initiate the "Letter of Acknowledgement", complete HCFA 562,

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enter the complaint into the log and determine "Action to be taken". The Complaint Coordinator will forward the complaint to the Survey Planner to be entered on the travel schedule.

After the investigation is completed, the Complaint Coordinator will organize all pertinent information, complete the complaint file, and have the file entered into the computer on ODIE.

- C. Complaints referred from the Ombudsman will be processed like complaints received by mail, except for the following:

After the investigation, the Complaint Coordinator will forward a copy of the investigation to the Ombudsman. That office will provide the complainant with the results of the investigation.

- D. Complaints originating from a second or third party will not be accepted unless the name of someone who can provide first hand corroboration is provided to the department.

- E. Order of Precedence for "Action to be taken":

1. Investigate within 2 working days. Complaints that constitute an immediate and serious threat. The Federal definitions and guidelines for determining immediate and serious threat will be adopted for this assessment.
2. Investigate within 10 working days. Complaints considered at Condition and/or level A.
3. Investigate within 45 working days.
4. Investigate during next on-site visit. Complaints determined "Routine".
5. Referrals. (Specify to whom referral is made).
6. Other Action (Specify the action).
7. None.

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COMPLAINT POLICIES AND PROCEDURES

COMPLAINT REFERRALS

SOM 3281

POLICY: It is the policy of the department to refer complaints to the appropriate department for investigation.

PROCEDURE:

The Complaint Coordinator will enter the complaint in the log, complete Part I of HCFA 562, and indicate under "Comments" to whom the complaint was referred. The Complaint Coordinator will send the "Letter of Acknowledgement" to the complainant stating to whom the complaint was referred.

1. ABUSE complaints involving nurse aides will be referred to the nurse aide program coordinator.
2. ABUSE complaints involving licensed professional people will be referred to the appropriate licensing agent.
3. ABUSE complaints involving financial exploitation of residents will be forwarded to the Ombudsman.
4. COMPLAINTS involving the following will be referred to the Regional Office:
 - a. JCAHO accredited hospitals (see SOM 3260 for procedure).
 - b. Any Federal Facility.
 - c. Christian Science sanatoria.
 - d. CLIA laboratories with CAP exemptions (see SOM 3288)
 - e. Blood transfusion-related fatalities (see SOM 3290)
 - f. Over utilization or inappropriate utilization of services. (Peer review organization (PRO) jurisdiction)
 - g. Civil rights violations.
 - h. Medicare/Medicaid fraud.
 - g. Improper or inappropriate surgical, therapeutic or diagnostic services. The RO will forward such complaints to the PRO for investigation,.
 - h. Anti-dumping complaints.
5. Resident transfer complaints will be referred to the Medicaid Division, Department of Social and Rehabilitation Services.

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COMPLAINT POLICIES AND PROCEDURES

COMPLAINT ACKNOWLEDGEMENT

SOM 3281

POLICY: Each complainant will be notified in writing that the complaint is being investigated and/or referred and the results of the investigation.

PROCEDURE:

1. The Complaint Coordinator will generate the standard "Letter of Acknowledgement" for signature by the Bureau Chief.
2. After the complaint has been investigated, the investigating Surveyor will write a letter to the complainant summarizing the results of the investigation. The letter will be submitted to the Complaint Coordinator for QA review and then will be submitted with the complaint write-up to the Bureau Chief for approval.

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COMPLAINT POLICIES AND PROCEDURES

COMPLAINT CONFIDENTIALITY

SOM 3282

POLICY: All complaints received by this department will be considered confidential material.

PROCEDURE:

1. Information concerning the complainant will be kept confidential at the time of the investigation. The complainant's identity will be revealed only to those individuals with a need to know and who are acting in an official capacity to investigate the complaint.
2. Results of the investigation will be kept confidential.
3. All records of complaints will be stored in the office for five years. After that, they will be stored in the basement with all other DHES records.

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COMPLAINT POLICIES AND PROCEDURES

COMPLAINT INVESTIGATION

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RIL 92-21

POLICY: All complaints received by this office will be investigated by this department or by referral to the appropriate department.

PROCEDURE:

1. All complaint investigations are unannounced.
2. An individual(s) with expertise in the specific areas involved in the allegation will be assigned to investigate the complaint. (NOTE: refer to Accredited Hospital Complaint Policies p. 17 when investigating complaints at these facilities.)
3. When visiting a facility to investigate a complaint, the investigating team will explain the reason for the visit and avoid any impression that a predetermination has been made as to the validity of the allegation. They will NOT divulge the complainant's identity. Specific allegations will not be discussed with the Administrator or other facility staff at the entrance conference if such specifics could inhibit the surveyors' ability to carry out objective observations.
4. The investigating team will use the appropriate survey report form(s) and interpretive guidelines for the facility. They will conduct a partial survey focusing on the specific regulatory requirements related to the allegation. They will review appropriate samples of residents/patients, rooms, records, services, etc., as necessary, to adequately assess compliance with applicable requirements. If, based on this initial assessment or other observations, significant problems are identified, the team will expand the scope of review as necessary.

The team will conduct the necessary investigation to resolve the complaint. A Level A deficiency may be cited during a complaint survey without triggering a standard or extended survey. If, however, observations made during the complaint investigation cause concern that other areas of the regulations are not met, then the team will investigate those concerns to determine whether or not the facility has additional deficiencies.

5. Exit Conference - At the completion of the investigation, the team will inform the Administrator of the results. Specific allegations made in the complaint should be discussed with the Administrator at this time, but the complainant's identity will not be divulged. The team will inform the Administrator of deficiencies which could jeopardize the health and safety of patients/residents and of actions that will be taken by the department.

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6. Upon completion of the survey, the team will complete the appropriate portions of the survey report form as part of the complaint record. It will become the basis for completion of HCFA 2567.
7. The policy on "Complaint Investigation Write-Up" will be used to document all findings, conclusions, and recommendations.
8. If a certification-related complaint is substantiated, then all deficiencies will be recorded on HCFA 2567. Substantiated means that the findings of the investigation revealed violations of the regulations and resulted in a deficiency. Findings may determine that an incident did occur, but no regulations were violated and therefore the complaint is not substantiated.

A letter to the facility will be generated from this office for the Bureau Chief's signature in order to obtain a plan of correction (see SOM 2728 Statement of Deficiencies & Plan of Correction HCFA 2567). The completed HCFA 2567 with plan of correction must be made a part of the complaint record with a copy made and placed in the facility File A.

9. The investigating Surveyor will be assigned to review the plan of correction from the facility and make recommendations to the Complaint Coordinator regarding the need for follow-up. Note: A follow-up will be scheduled at the next annual survey unless otherwise recommended by the surveyor.
10. The surveyor assigned to investigate a complaint will inform the complainant in writing of the results of the investigation. This letter will be reviewed by the Complaint Coordinator who will direct it to the Bureau Chief for review and initialing.
11. If no HCFA 2567 is generated, the surveyor will inform the administrator of the facility in writing that the complaint was not substantiated. Recommendations made at the time of the investigation will be included in the letter. The same procedure as in 9 above will be used for processing.
12. For complaints received through the State Ombudsman, the complaint coordinator will forward to the State Ombudsman by memo a copy of the complaint write-up and copies of all letters written with regard to the complaint, including any letters written to the complainant.

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COMPLAINT POLICIES AND PROCEDURES

COMPLAINT INVESTIGATION WRITE-UP

SOM 3281

POLICY: Each surveyor assigned to investigate a complaint will document the results of that investigation on the "Complaint Investigation Form," and complete HCFA 2567 when appropriate.

PROCEDURE:

1. Using the "Complaint Investigation Form", each allegation will be addressed with findings, conclusions and recommendations. Each allegation will be addressed separately unless the findings, conclusions and recommendations are the same for a group of allegations. Findings, conclusions, and recommendations for each allegation will be documented.

FINDINGS will include a description of the investigative activities performed, that is, who was interviewed, specific records reviewed, and observations made.

CONCLUSIONS will record whether the complaint has been found to be valid or verified, invalid or unable to verify, and the basis for the conclusions. If the complaint is valid, a violation of regulations, and a deficiency is written, the surveyor will state: "Deficiency cited under _____", and insert the appropriate tag number.

RECOMMENDATIONS will include (1) any recommendations made by the surveyor to the facility at the time of the exit; and (2) the need for follow-up, if appropriate, including the discipline (e.g., R.N., R.D., social Worker) to conduct the follow-up and the issues to be addressed.

2. HCFA 2567 will be completed as follows:

- a. Data is entered on the computer using Meas4 software.
- b. "DEFICIENCIES CITED AT THE TIME OF COMPLAINT INVESTIGATION" are inserted, if not entered at the time of the annual survey.
- c. The completed HCFA 2567 is submitted to the appropriate QA person for review. The QA person will route the form to the Complaint Coordinator for processing.
- d. If the investigation is conducted in conjunction with the annual survey, deficiencies will be cited along with other deficiencies on HCFA 2567. In this case, a copy of the completed HCFA 2567 will be attached to the Complaint Write-up and the Complaint Coordinator will process both the HCFA 2567 and HCFA 562, identifying deficiencies related to the complaint.

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COMPLAINT POLICIES AND PROCEDURES

COMPLETION OF COMPLAINT FILES

UNSUBSTANTIATED COMPLAINTS

POLICY: All unsubstantiated complaint files will be retained in this office, with HCFA 562 completed and data entered on ODIE.

PROCEDURE:

1. The following documentation will be maintained on each unsubstantiated complaint and filed in closed files for each facility in the Confidential Complaint Files.
 - a. HCFA 562, complete parts I & II, item 15 left blank.
 - b. HCFA 670
 - c. Complaint Investigation Write-up.
 - d. Original Complaint.
 - e. Letter of investigation to complainant.
 - f. Letter to facility regarding investigation.
 - g. Letter of acknowledgement to complainant.
 - h. Any supporting documentation from surveyor regarding investigation.
2. The complaint will be noted as closed on the complaint log and the above package will be entered on ODIE. The file will then be returned to the Complaint coordinator for filing.
3. NO FORMS ARE SENT TO THE REGIONAL OFFICE.

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COMPLAINT POLICIES AND PROCEDURES

SUBSTANTIATED COMPLAINTS

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RIL 92-18

POLICY: All substantiated complaints will be cited under the appropriate tag number on HCFA 2567 requesting a plan of correction and the completed file will be forwarded to the Regional Office as directed.

PROCEDURE:

1. Immediate and Serious Threat to Patient Health and Safety.
 - a. Certify non-compliance and initiate expedited termination procedures under Section 3010 (Termination Procedures -- Immediate & Serious Threat to Patient health and safety).
 - b. Reporting deadline - 3 working days following the on-site visit.
 - c. Documentation to be forwarded - HCFA 562, HCFA 462, HCFA 2567 and any appropriate supporting documentation.
2. Condition of Participation/Coverage not met (No immediate and serious threat to patient health and safety).
 - a. Certify non-compliance and initiate termination or intermediate sanction under section 3012 (Termination Procedures - excluding SNF's) and 3036 (Termination Procedures - SNF's).
 - b. Reporting deadline - 10 calendar days following on-site visit for SNF's, otherwise 45 calendar days.
 - c. Documentation to be forwarded - HCFA 562, HCFA 462, HCFA 2567, HCFA 670. Transmittal sheet and any appropriate supporting documentation.
3. All Conditions Met - Facility Unable or Unwilling to Provide Acceptable Plan of Correction for Other Deficiencies.
 - a. If the facility is unable to provide a POC within a reasonable time (not more than 45 days (see section 2726 Summary of Certification Actions Performed after survey)), certify non-compliance and forward all related supporting documentation to the RO. In the absence of an acceptable plan the RO will not apply the intermediate sanction, since it is not available to a provider without a plan of correction.
 - b. reporting deadline - 10 calendar days following on-site visit for SNF's (see section 3036) or 45 calendar days for other facilities.
 - c. Documentation to be forwarded - HCFA 562, HCFA 2567, HCFA 2567B (if applicable), HCFA 670, Transmittal sheet, and any appropriate supporting documentation.

All Conditions Met - Facility provided an acceptable plan of correction for other deficiencies but those deficiencies affect

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patient health and safety.

- a. Reporting Deadline - 90 calendar following on-site visit.
 - b. Documentation to be forwarded - HCFA 562, HCFA 2567, HCFA 2567B (if applicable, HCFA 670, Transmittal sheet. (If the Regional Office identifies a need for additional information, they will specify that information on a case -by-case basis.)
5. All Conditions Met - Acceptable plan of correction for other deficiencies which do not affect patient health and safety.
- a. Reporting Deadline - 90 calendar days following on-site visit.
 - b. Documentation to be forwarded - HCFA 2567, HCFA 562, HCFA 670, HCFA 2567B (if applicable) Transmittal sheet. (If the Regional Office identifies a need for additional information, they will specify that information on a case-by-case basis.)
6. The following documentation will be maintained on each substantiated complaint, copies will be forwarded to the RO as specified in 1 through 4 above, and will be filed in the closed files for each facility in the Confidential Complaint files.
- a. Region VIII "Complaint Investigation Transmittal Sheet"
 - a. HCFA 562
 - b. HCFA 2567
 - c. HCFA 2567B, if applicable
 - d. HCFA 670
 - b. Complaint Investigation Write-up.
 - c. Original Complaint.
 - d. Letter of investigation to complainant.
 - e. Letter to facility regarding investigation.
 - f. Letter of acknowledgement to complainant.
 - g. Any supporting documentation from surveyor regrading investigation.
7. Procedure for closing a substantiated complaint file.
- a. Complaint will be noted as closed on the complaint log.
 - b. The above package will be given to the Data Entry Individual for ODIE for entry on the computer
 - c. Documentation as noted above will be sent to RO.
 - d. File is then returned to the Complaint Coordinator for filing.

NOTE: If multiple complaints about the same facility are investigated on the same date, these complaints are to be reported on the same HCFA-562. Do not prepare separate forms for each complaint. For transmittal to the RO, supplemental pages can be used for overflow information. These additional pages are NOT to be entered into the complaint system.

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